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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/635,953	08/07/2003	Kevin Trout	TR-03-03	3390
27408	7590	03/25/2005	EXAMINER	
DAVID L. TINGEY LAW OFFICE OF DAVID L. TINGEY 15 SOUTH GRADY WAY SUITE 336 RENTON, WA 98055			HOGAN, JAMES SEAN	
			ART UNIT	PAPER NUMBER
			3752	

DATE MAILED: 03/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

SM

Office Action Summary	Application No.	Applicant(s)	
	10/635,953	TROUDT, KEVIN	
	Examiner	Art Unit	
	James S Hogan	3752	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2,3,5,9,11,12 and 14-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 9,11,12 and 14-37 is/are allowed.
- 6) ☒ Claim(s) 2,3 and 5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>08/07/03</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-3 rejected under 35 U.S.C. 103(a) as being unpatentable over U.S.

Patent 2,857,201 to Palmer

Regarding claims 2,3, Palmer ('201) teaches a spray device having a remote swivel nozzle with adjustable spray orientation. The nozzle (see Figure 5) includes a pole (8), a swivel nozzle (12) connected to the distal end of the pole and having a through passageway between the pole end and the nozzle discharge, and a handgrip on the pole (44). The handgrip is mechanically linked to communicate movement of the swivel nozzle by a rod (17). As the handgrip is slid on the pole, the movement causes rotation of the nozzle. Palmer does not teach the assembly being portable, however, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have made a spray device portable, since it has been held that making an old device portable or movable without producing any new and unexpected result involves only routine skill in the art. (*In re Lindberg*, 93 USPQ 23 (CCPA 1952))

Claims 5 rejected under 35 U.S.C. 103(a) as being unpatentable over U.S.

Patent 2,857,201 to Palmer in view of U.S. Patent No. 4,323,196 to Louge et al.

Regarding claim 5 Palmer ('201) teaches a spray device having a remote swivel nozzle with adjustable spray orientation. The nozzle (see Figure 5) includes a pole (8), a swivel nozzle (12) connected to the distal end of the pole and having a through passageway between the distal pole end and the nozzle discharge, and a handgrip on the pole (44). The handgrip is mechanically linked to communicate movement of the swivel nozzle by a rod (17). Palmer does not teach the handgrip as being mounted at a fixed position, nor a portable device. Louge et al ('196) teaches a handgrip (32) mounted at a fixed position on the pole and rotatable on an axis traverse to the pole. As the handgrip of Louge is rotated on its traverse axis, it causes the rotation of a nozzle. The handgrip also functions as a hand-brace on the Louge et al. ('196) device. Palmer does not teach the assembly being portable, however, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have made a spray device portable, since it has been held that making an old device portable or movable without producing any new and unexpected result involves only routine skill in the art. (*In re Lindberg*, 93 USPQ 23 (CCPA 1952)). Further, it would have been obvious to one skilled in the art at the time the invention was made to have modified the spray device of Palmer ('201) with the rotatable handgrip of Louge et al. ('196) in order to provide a stabilizing hand-brace on the device.

Allowable Subject Matter

2. Claims 9,11,12,14-37 allowed.

Conclusion

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3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure is as follows:

U.S. Patent No. 3,166,252 to Williams et al., disclosing a swivel joint for spray nozzles

U.S. Patent No. 6,619,569 to Jens, disclosing an extended reach pressure relief spray valve

U.S. Patent No. 1,745,972 to Beck, disclosing a spray control appliance

U.S. Patent No. 5,947,388 to Woodruff, disclosing an articulated pole for spraying fluids

U.S. Patent No. 1,849,511 to Thompson, disclosing an extension pole attachment for spray guns

U.S. Patent No. 3,893,630 to Bochmann et al. disclosing a swivel outlet for a sprayer


Any inquiry concerning this communication or earlier communications from the examiner should be directed to James S Hogan whose telephone number is (571) 272-4902. The examiner can normally be reached on Mon-Fri, 7:00a-4:00p EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Scherbel can be reached on (571) 272-4919. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3752

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JSH
03/08/2005



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Group 3700